
OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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Item Number: 200

An Ordinance Providing for Defense and Indemnification of Community Planning Groups

On Monday, March 18, 2009, the City Council will be asked to consider an Ordinance providing for the defense and indemnification of Community Planning Committee and Group members. This item was previously heard by the City Council on two prior occasions, November 24, 2008 and January 12, 2009. At each of these meetings the City Council asked the City Attorney to continue to work with the Community Planning Group members to revise the Ordinance to provide better protection to the volunteers. In addition, at the January 12, 2009 City Council meeting, Councilmember Sherri Lightner asked the IBA to review the fiscal impacts of the proposed Indemnification Ordinance.

Under the proposed Indemnification Ordinance the City would provide for the defense and indemnity of Community Planning Committee and Group members against claims or actions resulting from their duties. The City's responsibility to provide for the defense and indemnity is contingent on the Committee and Group members following criteria established in the draft Indemnification Ordinance.

If the City of San Diego were required to provide for the defense of Community Planning Committee or Group members, the fiscal impact to the City would depend on how the legal representation is provided. If the City Attorney elected to provide a legal defense using a staff attorney, then the personnel and non-personnel expenses would be covered by the department's annual operating budget which is included in the City's General Fund. If the City Attorney recommended the use of outside legal counsel, which would require City Council approval, then the funding could come from the City's Public Liability Fund.

The City's Public Liability Fund was established to provide funding for the City's self insurance program for General Fund public liability claims, including claims for bodily injury, property damage, inverse condemnation, false arrest and errors and omissions. Recently, the Public Liability Fund has been used to fund other General Fund non-claim related expenses including legal defense. The Fiscal Year 2009 Annual Budget includes \$28.0 million for the Public Liability Fund (\$18.0 million for annual expenses and \$10.0 million in reserves). As of March 12, 2009, the Public Liability Fund had a balance of \$15.4 million which includes the \$10.0 million reserve. It is important to note that in the past the Public Liability Fund has been exhausted prior to the end of the Fiscal Year requiring additional revenue from the City's General Fund.

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